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NOTICE OF ALLOWANCE AND FEE(S) DUE

28960 7590 05/09/2008

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

EXAMINER

RAMPURIA, SHARAD K

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 05/09/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,816	02/27/2004	Richard M. Onyon	FUSI-02200	5654

TITLE OF INVENTION: WIRELESS TELEPHONE DATA BACKUP SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$720	\$300	\$0	\$1020	08/11/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

28960 7590 05/09/2008

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	YES	\$720	\$300	\$0	\$1020	08/11/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
RAMPURIA, SHARAD K	2617	455-419000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 78 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 78 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/789,816

Examiner

Sharad Rampuria

Applicant(s)

ONYON ET AL.

Art Unit

2617

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/17/2008.
2. ☒ The allowed claim(s) is/are 1-19, 52-60 and 82-93 (renumbered as 1-50 respectively).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 04/07/2008
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

In view of the Appeal Brief Filed on 03/17/2008, PROSECUTION IS HEREBY REOPENED. An allowance subject matter set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/William Trost/

Supervisory Patent Examiner, Art Unit 2617

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

Claims 20-51 and 61-81 are cancelled.

Claims 1-19, 52-60 and 82-93 (renumbered as 1-50 respectively) are patentable.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The closest prior art, Vargas; Sandra I. et al. (US 7269433 B2) teaches Data is synchronized between a mobile device and a computing device over a wireless link. Synchronization operations are scheduled based on a predetermined subset of user actions. (Abstract)

The next prior art, Bloch; Stephen et al. (US 7054594 B2) teaches A method of safeguarding against loss of data stored in a portable data storage device or loss of the data storage device itself is described. A user-carried backup device having memory and a wireless communication link for communicating with the portable data storage device is provided. The backup device and the portable data storage device communicate periodically or quasi-continuously over the wireless communication link and may backup data entered into the portable data storage device and check for removal of the portable data storage device. An alarm is activated to alert a user to loss of the portable data storage device if the portable data storage device is out of range of communication for a predetermined period. (Abstract)

The subsequently prior art, Rakars; Patrick L. et al. (US 6317755 B1) teaches A portable data device (300) having a memory (302) is provided. The memory (302) is segmented into a plurality of sectors (304-312). A backup memory buffer (312) and a plurality of applications

(304-310) are programmed into the plurality of sectors, wherein the backup memory buffer (312) is jointly used by the plurality of applications (304-310). A valid state of data is stored in the backup memory buffer (312) prior to performing a transaction for a first application (304). The valid state of data is restored in the first application (304) upon power up of the portable data device (300) in an event the transaction is terminated prior to completion, wherein the step of restoring is independent of a next application in which a next transaction is performed. (Abstract)

The next prior art, Alanara; Seppo (US 6064880 A) teaches A method is disclosed for operating a telecommunications system. The method includes a first step of providing at least one mobile station and a telecommunications network that are bidirectionally coupled together through a radio link. The mobile station includes a first memory, referred to as a Short Code Memory (SCM), for storing at least user-specified information. A first step of transmitting transmits at least some of the contents of the first memory from the mobile station to the telecommunications network, and a first step of receiving receives the transmitted contents of the first memory and stores at least some of the received contents in a second memory. A second step of transmitting transmits contents of the second memory from the telecommunications network to the mobile station, and a second step of receiving receives the transmitted contents of the second memory and stores at least some of the received contents in the first memory. In one embodiment of this invention the second memory is associated with an Over-the-Air Activation Function (OATF), while in a second embodiment the second memory is associated with a Short Message Service (SMS) Cellular Messaging Teleservice (CMT) Message Center (MC). In this manner the SCM contents are archived at the network level, and can be subsequently

downloaded to the same or a different mobile station to restore the contents of the SCM.

(Abstract)

The next prior art, Yamagata, Hideo (US 20040093385 A1) teaches In a backup system which backs up memory information in a cell phone to a terminal by transmitting/receiving electronic mail, the terminal includes an instruction mail creating section and backup section. The instruction mail creating section creates, as backup instruction mail, electronic mail having information for instructing to perform backup stored in a header portion. The backup section analyzes the header portion of the received electronic mail. When detecting that the mail is backup response mail from the cell phone, the backup section decodes the text of the received backup response mail and backs up the text. The cell phone includes a response mail creating section which analyzes the header portion of the received electronic mail, creates, as backup response mail, electronic mail having a text in which the memory information in the cell phone is coded and written, when detecting that the mail is backup instruction mail from the terminal, and transmits the mail to the terminal. A backup method is also disclosed. (Abstract)

The next prior art, Crockett; Robert Nelson et al. (US 6260124 B1) teaches Backup storage is resynchronized to primary storage, ensuring that any new updates received during resynchronization are applied in the proper order relative to resynchronization data. Under normal operations, a data mover mirrors data stored in primary storage to backup storage. If an error condition arises, preventing mirroring, the data mover stores newly received data in primary storage without mirroring the data to backup storage. The data mover also identifies this data in an update map. When the error condition ends, the data mover performs a static resynchronization process, serving to update the backup storage with the un-mirrored data,

identified in the update map. When new data is received during static resynchronization, a dynamic resynchronization process is invoked to accurately process the updates. Dynamic resynchronization ensures that newly received data records are copied to backup storage in the proper order (if at all) with respect to versions of the same data being processed by static resynchronization. (Abstract)

The next prior art, Suzuki; Masaki (US 6839568 B2) teaches In a user setting information management method, when a predetermined event occurs, user setting information stored in the built-in memory of a portable telephone is read out and saved in a backup flash memory. When the predetermined event is canceled, the user setting information saved in the flash memory is written in the built-in memory of the portable telephone. The flash memory is divided into a plurality of independently erasable blocks. Each divided block is divided into a user setting information area for writing user setting information to be backed up and a block management area for writing block management information for each block. A user setting information log representing a backup order is generated as block management information for each block. Pieces of block management information of all blocks are compared every occurrence of a predetermined event to identify a block having undergone oldest backup and a block having undergone newest backup. After data in the block having undergone oldest backup is erased, data is backed up in the erased block. Block management information of the erased/backup block is written in the block having undergone newest backup. A user setting information management system is also disclosed. (Abstract)

The next prior art, Nordeman; Roger D. et al. (US 6363249 B1) teaches A wireless message communication system (11) delivers dynamically configurable datagram messages

between a server (15) and subscriber units (17, 18, 19, 20, 21, 22). The server (15) queries a subscriber unit (17) for its data capability profile, such as supported data types, number of data fields, size of each data field, and data type for each data field. The server (15) and the subscriber unit (17) dynamically configure a message datagram (200) to conform message information in transmitted data to the data capability profile of the subscriber unit (17). The server (15) and the subscriber unit (17) then wirelessly communicate a message containing message data packets arranged and formatted according to the message datagram (200).

(Abstract)

The next prior art, Bolt; Thomas B. et al. (US 6038665 A) teaches A portable computer back up system copies user-selected files for back up as the computer is being used, and when the computer senses a network connection and the network is relatively available, the blocks of the files to be backed up are interleaved with, e.g., metadata and transmitted to a remote facility via the network. The back up system suspends the backing up of files if a disk space limit is reached, transmits any copied files when the network is available, deleting the back up copies of the files from disk, and then resumes copying files for back up. Also, each time the portable computer is connected to a network, it determines what other devices are on the network, and if the computer recognizes the network configuration, the computer reconfigures its settings as appropriate for, e.g., printing to the printer that happens to be connected to the particular network to which the portable computer is connected at the time. (Abstract)

However, all the above combination fails to anticipate or render the claimed limitations in combination with all the recited limitations of the disclosed independent claims obvious (**viewed the entire claim as a whole**), over any of the prior art of record, alone or in combination.

Consequently, the disclosed independent claims are allowed on behalf of above-discussed reasons, and also preserved via Applicants arguments and remarks filed on 03/17/2008 as well. Since the disclosed dependent claims are dependant on one of the above independent claims, therefore they are also patentable.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov

/Sharad Rampuria/
Primary Examiner
Art Unit 2617